

THIRD REVIEW CONFERENCE OF THE NON-PROLIFERATION TREATY:
Opportunities For Action By States Party To The Treaty

JULY 1985

The Third Review Conference of the Non-Proliferation Treaty (NPT) will convene in Geneva on 27 August 1985 for approximately four weeks. To ensure a "successful" Review Conference there must be tangible results achieved, not merely the absence of dissension. These results could take the form of a strong final declaration, as well as adoption of proposals that demonstrate a commitment by all parties to fulfill their duties and obligations under the treaty.

There are several ways in which the States Party to the Treaty, in particular the Non-Nuclear Weapons States Party (NNWS), might address issues of concern. The following proposals represent some opportunities for action at the Review Conference which, if adopted, would mark a major turning point toward ensuring the long-term viability of the NPT.

These proposals primarily address concerns over Article VI compliance by the Nuclear Weapons States (NWS). This emphasis reflects the prevailing view that Article VI non-compliance is the single greatest threat to the future of the NPT.

ACTION PROPOSALS:

1. FINAL DECLARATION SPECIFYING STEPS NECESSARY FOR ARTICLE VI COMPLIANCE, WITH A DEMAND FOR AN IMMEDIATE MORATORIUM ON UNDERGROUND NUCLEAR EXPLOSIVE TESTS. The final declaration from the Third Review Conference should be more than a reaffirmation of the Treaty's objectives. In 1980, no final document was produced to demonstrate the discontent of the NNWS with the progress of the NWS on arms control. At the 1985 Review Conference, the NNWS could register their dissatisfaction by specifying what steps they expect the NWS to take. This declaration could also be linked with proposals 2, 3, and 4, below. As an immediate test of the NWS commitment to Article VI compliance, the NNWS could demand an immediate moratorium on underground nuclear explosive testing. If consensus on a strong final declaration is blocked by the NWS, the NNWS should be prepared to bring approval of the final document or a call for a test ban to a vote [see "PROCEDURAL CONSIDERATIONS" below]. A weak or fragmented final declaration should not be accepted by the NNWS.

2. CALL FOR A MANDATE TO BEGIN NEGOTIATIONS FOR A POST-1995 NPT. The NPT must be reaffirmed in 1995. At that time States will have the opportunity to replace it with another non-proliferation treaty. A treaty can be envisioned which would be non-discriminatory, command near universal adherence, contain a ban on nuclear explosive testing, require a separation of military and civilian plutonium, etc. A new treaty could easily take 10 years to negotiate and the Third Review Conference would be the appropriate time to raise the issue. A proposal for a replacement treaty would put the USA, USSR, and UK under pressure to make the NPT more attractive by fulfilling their obligations under Article VI.

3. CALL FOR A REVIEW CONFERENCE OF THE THE NPT IN 1986 TO REVIEW PROGRESS ON ARTICLE VI COMPLIANCE. It is unlikely that the current US-USSR arms control negotiations will produce results by the time of the Third Review Conference. The NNWS, therefore, have much to gain by finding ways to maintain the pressure on the NWS, and to not allow another five years to elapse before again reviewing their progress. Parties to the Treaty could call for an extraordinary conference of the NPT in 1986 specifically to review progress on Article VI compliance. As noted below, the Rules of Procedure do not preclude adoption of resolutions to convene more frequent Reviews. Certainly the case can be made that more frequent evaluation is essential to ensure continued confidence in the NPT. This idea was put forward at the 1980 Review Conference.

4. CALL FOR AN AMENDMENT CONFERENCE OF THE LIMITED TEST BAN TREATY OF 1963 (LTBT). The LTBT specifies a procedure (Article II) whereby 1/3 or more of the 112 Parties to the Treaty may propose amendments and request the Depositary Governments to convene an amendment conference. Many of the Parties to the LTBT are also Parties to the NPT. Using this procedure, an amendment could be proposed to make the Limited Test Ban Treaty into a Comprehensive Test Ban Treaty, adding the necessary verification protocols such as those proposed by Sweden in the Conference on Disarmament. The NPT Review Conference could be the forum for announcing such a proposal. The intent of this proposal would be to link the achievement of a multilateral CTBT to the strengthening of the NPT.

PROCEDURAL CONSIDERATIONS:

It should be noted, that while the Rules of Procedure for the Review Conference place a great emphasis on seeking consensus in any substantive decisionmaking, it is not required [see document: NPT/Conf.III/PC.I/p.4]. The Rules specifically allow the Conference to adopt resolutions on matters of substance by a 2/3 majority vote of States Party that are present and voting, if this majority includes a majority of the States participating in the Review Conferences (Part VI, Rule 28.4).

ADDITIONAL ACTION OPPORTUNITIES PRIOR TO THE REVIEW CONFERENCE:

With an eye toward increasing the international attention focussed on the NPT, there are actions that could be taken jointly or individually by the NNWS prior to the Third Review Conference.

1. ENCOURAGE HIGH-LEVEL DELEGATIONS TO ATTEND THE REVIEW CONFERENCE, WITH APPEARANCES BY HEADS OF STATE, FOREIGN MINISTERS, AND PARLIAMENTARIANS.

2. ENCOURAGE ALL NATIONS PARTY TO THE NPT TO ATTEND THE REVIEW CONFERENCE.

3. ENCOURAGE ALL NATIONS NOT PARTY TO THE NPT TO ATTEND THE REVIEW CONFERENCE AS OBSERVERS.

4. ISSUE GOVERNMENTAL AND/OR PARLIAMENTARY DECLARATIONS ON THE NPT BEFORE THE REVIEW CONFERENCE CONVENES.

5. SEEK PASSAGE OF DECLARATIONS ON THE NPT BY ALLIANCES OF NATIONS (OPANAL, OAS, OAU, ASEAN, SOUTH PACIFIC FORUM, ETC.)

6. BRIEF NATIONAL NEWS JOURNALISTS, ENCOURAGE THEIR ATTENDANCE AT THE REVIEW CONFERENCE.

DEVELOPING A MANDATE FOR A REPLACEMENT NON-PROLIFERATION TREATY

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As things stand now, there is a very real risk that when the Non-Proliferation Treaty "expires" in 1995** that many states will refuse to sign it for another term. The discrimination between nuclear and non-nuclear weapons states built into the NPT is now unacceptable to many Parties. Furthermore, there is little to suggest that the next ten years will bring the progress on Articles IV and VI that was envisaged when the Treaty went into effect. Certainly the case can be made there is a need for a Non-Proliferation Treaty which not only meets the concern of these states but also the near-nuclear states that have so far refused to sign the NPT. Such a new treaty could contain, among other things, provisions for universally applied safeguards, separation of civil and military plutonium and highly-enriched uranium, and a ban on nuclear explosive testing.

A proposal for a replacement or substantially revised NPT, once it caught hold, would put considerable pressure on the Nuclear Weapons States. Either they would have to make the NPT more attractive by fulfilling their obligations under Article VI, or they would have to participate in negotiations for a replacement treaty that would establish a specific timetable for Article VI compliance, i.e., conclusion of a Comprehensive Test Ban Treaty.

If the NPT is to be renegotiated or replaced in 1995 it is not too soon to initiate the task. The current NPT took nine years to negotiate from start to finish, the Law of the Seas Treaty even longer.

The Third Review Conference could be a forum at which states Party sought to establish a negotiating mandate for a post-1995 NPT. This proposal could appear formally in the Final Declaration, as a resolution, or as an expression of a minority view -- perhaps of the Neutral and Non-Aligned nations.

Following the Third Review Conference, a resolution could be introduced in the First Committee of the United Nations General Assembly calling for negotiations for a treaty to replace the current NPT. Resolution 2028 (UNGA, 20th Session, 1965) could at that time be reintroduced. It was this resolution which set forth the guiding principles under which the NPT was to be negotiated. These five principles still provide a sound basis for a replacement NPT. The Nuclear Weapons States supported these principles in 1965, and would be hard pressed to find acceptable reasons for not doing so now.

Introduction of a Congressional joint resolution to parallel to Resolution 2028 might be a significant demonstration of support for an effective non-proliferation treaty and regime by Members of Congress. Interestingly, Resolution 2028 passed the UNGA on November 19, 1965. President Reagan and General Secretary Gorbachev will begin their summit meeting on the twentieth anniversary of this historic date.

** In fact, what this expiration means will be subject to legal interpretation. It is commonly understood to mean that the parties to the Treaty must vote to reaffirm it. The U.S. Arms Control and Disarmament Agency has argued that the NPT does not technically expire at all, and that the only determination to be made in 1995 is the duration for renewal of the Treaty.

STRATEGY FOR AN AMENDMENT TO THE LIMITED TEST BAN TREATY

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A Comprehensive Test Ban Treaty is an essential part of a truly effective non-proliferation regime. A CTBT is called for in the preamble to the Non-Proliferation Treaty and the Final Document of the First Review Conference of the NPT of 1975. The failure of the Nuclear Weapons States (NWS) to conclude such a Treaty, even after 15 years, is one of the major causes for dissatisfaction with the NPT.

It is therefore in the interests of all states that the Third Review Conference be used in a constructive way to encourage the reopening of CTBT negotiations. Past experience suggests that simply calling for negotiations on a CTBT is unlikely to elicit much response from the NWS.

One way to go beyond this at the September Review Conference, and create both a negotiating forum for a CTBT and a great deal of public interest in the issue would be for the non nuclear states to call for an amendment conference to the Limited Test Ban Treaty (LTBT) to make it into a CTBT.

The LTBT of 1963 specifies a procedure (Article II) whereby a simple majority of Parties to the Treaty (now numbering 112), including the three Depositary Governments (USA, USSR, and UK) could amend the agreement into a Comprehensive Test Ban. The intention of the Parties to the LTBT to conclude a CTBT is expressed in both the Preamble to the Treaty and its Articles.

The proposed amendment can be simple and direct. It could be accomplished by deleting certain qualifying language in the existing text, and adding appropriate verification protocols such as those proposed by Sweden in their draft Comprehensive Test Ban Treaty

Any single Party can submit a proposed amendment to the depositaries and thereby activate the the process. The number of Parties required to initiate the convening of an amendment conference is 38, or one-third of the 112 states party to the Treaty.

The Depositary Governments select the time and location of the amendment conference, and at the amendment conference all aspects of the proposed amendment would be open to negotiation.

Such a conference would attract an enormous amount of attention and provides a platform for the testing issue which has so far been lacking. By opposing adoption of such an amendment, any of the nuclear weapons states would be placed in the very difficult position of having to explain their opposition to a CTBT with the rest of the world watching.